



Revenue and Transportation Interim Committee

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57th Montana Legislature

SENATE MEMBERS
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VICKI COCCHIARELLA
BOB DePRATU
JON ELLINGSON
GLENN A. ROUSH
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COMMITTEE STAFF
LEANNE KURTZ
RESEARCH ANALYST
LEE HEIMAN
STAFF ATTORNEY
MIKO OWA
SECRETARY

June 13-14, 2002

DRAFT MINUTES

Room 152, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

COMMITTEE MEMBERS PRESENT

Rep. Erickson, Chairman
Sen. Glaser, Vice-Chairman
Sen. Cocchiarella
Sen. DePratu
Sen. Roush
Sen. Taylor
Rep. Laslovich
Rep. Story
Rep. Kaufmann

COMMITTEE MEMBERS ABSENT

Sen. Ellingson
Rep. Devlin
Rep. Somerville

STAFF PRESENT

Leanne Kurtz, Research Analyst
John MacMaster, Attorney
Miko Owa, Secretary

AGENDA & VISITORS

Agenda (ATTACHMENT #1)
Visitors' List (ATTACHMENT #2)

CALL TO ORDER, ROLL CALL, APPROVAL OF MINUTES

The meeting was called to order at 10:00 a.m. by Rep. Erickson. Roll call was noted (ATTACHMENT #3) with all members present except for Rep. Devlin and Sen. Ellingson who were excused. Sen. DePratu moved that the minutes of the April 11, 2002 meeting be approved. The motion passed unanimously.

MONTANA DEPARTMENT OF TRANSPORTATION

Tim Reardon, Chief Legal Counsel, Montana Department of Transportation (MDT), presented to the Committee MDT's proposed legislation (EXHIBIT #1). Specifically, the proposed legislation is as follows:

5401-01-001 through 5401-01-003: Lowering the blood alcohol level from .10 to .08, dealing with repeat DUI offenders, and open containers in motor vehicles.

Mr. Reardon presented to the Committee the TEA-21 Restoration Act (EXHIBIT #2).

5401-02-004: Design/Construct School Bus Pullouts

He said that the bill would allow a school bus driver to not engage flashing lights and stop traffic in both directions under certain circumstances. He said that the purpose of this is that the MDT intends to design separate facilities from the main traveling surface of the highway to allow school buses to pull off. He said that a pull out has already been created, but it is still against the law for a bus driver not to turn on the flashing lights and for the traveling public not to stop in both directions, even though the bus has pulled off the highway.

5401-02-005: Establish Sliding Scale for Bid Bond Forfeitures

Mr. Reardon said that currently the law requires that a bidder for a public works contract must file a 10% bid-bond. He said that current law states that if a contractor is awarded a bid and refuses to execute the contract, they forfeit the bid-bond. He said that for large highway projects that is a large amount of bonding money. He said that the MDT would like to develop a sliding scale so that as the projects got bigger, the percentage of the bid-bond would decrease. He said that the proposal that they would submit would be limited to highway construction. He said that this would reduce the risk to the contractor as well as the litigation risk to the Department. He said that the whole idea of the bid-bond is to try to ensure that the low bidder will actually execute the contract.

5401-02-006: Amend Current Eminent Domain Statutes

Mr. Reardon said that this proposal has been withdrawn.

5401-02-007: Amend to Expedite Condemnation

Mr. Reardon said that the current eminent domain process requires two steps. He said that the first part is filing a complaint to get possession of the property and to establish just compensation. He said that this bill is not intended to infringe or minimize the opportunity for a landowner to challenge the values or the need for taking the property. He said that the current law provides that once the complaint is filed, you can have 6 months before you have a hearing on the single issue of necessity. He said that there is presumption that there is necessity, but the landowner can question that. He said that the landowner can hire an engineer to oppose the complaint. He said that attorneys and landowners are trying to leverage the issue of necessity in an effort to increase the compensation. Mr. Reardon said that they would like to try the compensation independently which is what is currently done. He said that the inability to get a single parcel on a large project will delay the project for up to two years. He said that the MDT would like to constrain the time-frame somewhat as to when hearings must be held. He said that they would like to place an impetus on the court to conduct a hearing within a fixed period of time, something less than 6 months. He said that a delay of six months is a loss of a construction season. He also said that the problem is compounded when the MDT is trying to

obligate federal funds because the funds must be obligated prior to the federal fiscal year-end and the funds cannot be obligated until the state has possession of all the property on a project. He said that they would include in the proposal a recommendation that a judge may appoint a hearings officer selected by the court to conduct the hearing and the MDT would pay for that. He said that six months is currently in statute as the desired time-frame to have a hearing, but this can be extended.

5401-40-008: Allow Department to Lease Airport Facilities of Real Property from 10 to 40 Years

Mr. Reardon said that local governments are allowed to lease airport facilities for a period of 40 years. However, current law prevents the state from leasing airport facilities for over 10 years. He said that the bill would make the periods equal at 40 years. He said that the reason for doing this is that local governments currently have little incentive to invest time and equipment into improving the facility if the lease is at risk within 10 years.

5401-02-009 through 5401-02-013: Comply with SJR 6 Revisions

Mr. Reardon said that this series of proposals are place holders that will be used to revise Title 61, Ch. 8, MCA (SJR 6, 2001 Session). He said that some of the changes will be house-keeping while other changes are substantive. He said that if the SJR 6 task force is not equipped to propose changes, then the MDT would present them to the legislature.

5401-01-014: Pilot Program to Use Design-Build Construction Programs

Mr. Reardon said that an advisory group has been created to study the issue of design-build contracting. He said that it would be a single negotiated contract for the design and construction of a highway project. He said that currently, the design work is done by the Department or a consultant. He said that after the design is complete the MDT looks for low bids. He said that the proposal would ask the legislature to set aside a fixed amount of money of \$20 million, appoint a committee, and have the committee select projects to pilot the design-build program. He said that the committee would also be responsible to develop the criteria by which a contract would be developed and the contractor chosen. He said that the MDT has reached consensus with the current advisory committee to move forward with an idea. He said that the contracting industry would like to see a bill. He said that historically, other states have shown that a design-build project has cost somewhat more, but cost savings have been made up in the idea of getting projects to contract quicker. He said that there is a risk shifting involved to the designer and the contractor in the design-build contract and you pay more for shifting risk. He said that the Department would like to see if the idea is cost effective and efficient in terms of time and money, and the projects looked at would be a variety. He said that they would expect the bill to expire in 2008 with a report to the session in 2009. He said that the period is so lengthy because of the time it takes to get a project started.

5401-01-015: Repeal the Sunset Provision in Section 61-10-141, MCA

Mr. Reardon said that temporary legislation is set to expire which currently allows MCS officers, acting with probable cause, to test the fuel of any diesel powered vehicle for compliance with the fuel tax provisions of Title 15. He said that the Fuel Tax Advisory Council supports the removal of the sunset on this provision. He said that he could not say statistically if there is a huge violation of the law.

5401-03-016 Install Electronic Kiosks and Information at Rest Areas

Mr. Reardon said that the proposal would permit the installation of electronic kiosks in rest areas which would provide traveler information and allow for advertising for attractions and accommodations. He said that current law prohibits the installation and operation of a commercial structure or enterprise within the right-of-way of a controlled access highway. He said historically, the focus of the discussion has been on vending machines. He said that we would allow a private entity to install a kiosk and advertise services for a fee. He said that maintenance would be the obligation of the person who installed it. He said that most of the kiosks would be installed in 24-hour facilities.

5401-22-017: Single Trip Permits

Mr. Reardon said that the bill would amend the current law regarding the issuance of single trip permits for truckloads exceeding 15 feet overhang. He said that this currently applies only to logging trucks. He said that the significance of requiring single trip permits is it allows the Department to put limitations on the mover to require pilot cars and flagging. He said that the bill stems from an accident where a house moving truck made a turn and swung out into the travel lane causing a fatality. He said that he does not know if the new law would have prevented the accident, but it would have required the use of a pilot car.

5401-22-018: HB 124 (not included in EXHIBIT #1)

Mr. Reardon said that when HB 124 was passed there was a general fund payment to the MDT in FY 2002 of approximately \$2.8 million, approximately \$2.9 million in FY 2003 and FY 2004, and a percentage increase annually thereafter. He said that through the agreement between the Director and the Office of Budget and Program Planning (OBPP), the FY 2002 payment of \$2.8 million would be rebated to the general fund and all but \$75,000 of the FY 2003 payment would be rebated to the general fund. He said that for FY 2004 and beyond, the current law would remain in effect.

Mr. Reardon said that another bill that will be presented is in regard to the issuance of Garvey Bonds. He said that the bill was received late and is not contained in exhibit #1. He said that the MDT is proposing issuing Garvey Bonds to pay for a portion of Highway 93. He said that there is a question about the bonding authority, capacity of the MDT to do that and the suggestion that has come from OBPP is that the MDT should pursue additional legislation to authorize the issuance of those bonds. He said that the bonds are eligible for payback through federal funds.

Sen. Cocchiarella asked when the prohibition was passed and any activity by the state regarding 5401-03-16. Mr. Reardon said that the prohibition goes back to when the interstate was constructed. However there have been some efforts to allow for the installation of vending machines, but nothing has ever come of the proposals. He said that there were questions of maintenance, liability, and vandalism.

Sen. Cocchiarella asked if there were any federal constraints. Mr. Reardon said that the federal law does not preclude or limit kiosks.

Sen. DePratu asked if there is any thought to allowing commercial development at the rest areas. Mr. Reardon said that within the MDT there has been no discussion. Sen. DePratu said that in other states there are businesses in rest areas. Mr. Reardon said that there were conversations regarding commercial development many years ago, but there was opposition so the issue was put aside. Sen. DePratu said that he would like the idea explored.

Rep. Story said that the MDT puts up a sign at the exits regarding services available and asked why special legislation would be needed to put in a kiosk. Mr. Reardon said that the MDT erects the sign, but they are produced by a corporation in Minnesota. He said that the corporation pays for the privilege and sells the advertising space. He said that that is an exception in current state law. Rep. Story said that there was some discussion in a subcommittee that if you put a commercial business in a rest area, then you are competing with local businesses that are in the adjoining towns.

Rep. Story asked how the MDT will determine where school bus stops will be in reference to 5401-02-004. Mr. Reardon said that the intent would be to work in advance with the school district to make that determination. He said that if there is a statutory issue, the MDT is not going to make a problem for the school district. Rep. Story said that he would like the MDT to do that research as there may be some nuance in the law.

Sen. Roush said he is still concerned about rural roads in Montana and having students cross two-lane highways. Mr. Reardon said that is a concern and will always be an issue.

Dave Galt, Director, MDT, said that there is no intention to get away from stopping on the smaller highways. He said that they are specifically looking at busier highways.

Sen. Taylor concurred with Mr. Galt and said that if a vehicle stops while a bus is in a pullout, a hazardous situation is created.

Rep. Story asked about the combined bid process and said his concern is that the process would limit a contractor if they did not have an engineering side to their business. Mr. Reardon said that they anticipate that most projects will be part of a joint venture as there are very few companies in Montana that have the design and construction capacity.

Sen. Taylor asked if the bid is accepted solely on cost considerations. Mr. Reardon said that the design portion is a negotiated contract and is not a bid item. He said that the lowest bid is accepted for the construction portion.

Sen. Taylor asked how many out of state contractors Montana is currently using. Mr. Galt said that he does not know the specific number but would provide that information to the Committee. Sen. Taylor asked Mr. Reardon to explain the Prince lawsuit. Mr. Reardon provided a brief history of the suit and said that the case is still in court. He said that the project is currently in limbo and the federal government is deciding if they will participate.

Sen. Taylor asked about taking into consideration human and local impacts and if a different system should be used to award bids. Mr. Galt said that the MDT can handle contractors that perform poorly. He said that there would need to federal regulation changes to take into consideration impact to state individuals for using out of state contractors.

Rep. Story asked about the amount of revenue generated from airport leases. Mr. Reardon said that the leases do not generate a large amount of money.

Rep. Laslovich asked what the fee is for single trip permits. Mr. Galt said that the fee is \$10.

Sen. Cocchiarella moved to authorize staff to draft proposed agency legislation with items 5401-01-001, 5401-01-002, 5401-01-003, 5401-01-004, 5401-02-006, 5401-18, and 5401-19 to be voted on separately. The motion passed unanimously.

Jim Currie, Deputy Director, MDT, presented to the Committee the Highway State Special Revenue Account (EXHIBIT #3 and #4). He said that the revenue in the state special revenue fund is holding up very well. He said that in regard to the long term aspects of this fund, we are basing the projections on current law. He said that during the next federal fiscal year, the state will take a \$40 million reduction in federal aid. He said that will mean that there will be fewer state matching dollars required. He said that the MDT will ask to have the matching funds put back into the program to mitigate the loss of federal funding.

Mr. Galt reviewed for the Committee 5401-18. He said that HB 124 changed the vehicle tax revenues and impacted the MDT budget because some of the revenue went into the highway account. He said that the legislature transferred \$2.8 million each year into the highway trust fund to remedy the situation. He said to minimize the effects of the required general fund budget reductions the MDT has offered the money back to the general fund. He said that the legislature will have to make a statutory change to stop the appropriation. He said that the bill draft that will be submitted to the legislature would decline the transfer of funds for FY 2002-2003.

Rep. Story asked if the MDT can decline the money. Mr. Galt said that they can decline to take the money.

Rep. Story asked about reimbursements to local governments. Mr. Galt said that he did not know how the reimbursements happen.

Sen. Taylor said that exhibit #3 and #4 reflects a downturn in the economy for a long period of time. He asked how Mr. Galt came up with this assumption. Mr. Galt said that the numbers are based upon past performance when the economy has been in a downturn.

Rep. Story asked about the alcohol incentive and the Hardin ethanol plant. Mr. Galt said that once a business entity files a plan with the MDT the incentive payments and the reduction in tax are tied to a time frame. He said that once the plan is on file, the plan is kept on file until PSC action is taken. He said that the MDT thought the Hardin plant was the most promising.

Rep. Story asked why the Hardin plant continues at \$3 million. Mr. Currie said that the Hardin plant was dealt with in the order of receipt and estimates of production. He said that the Miles City plant plan was received next and based on their production levels it did not come to the full \$3 million. Mr. Currie said that they recently received the Great Falls plant plan and what was left was the \$750,000.

Rep. Erickson asked if the Great Falls can receive additional funding if the Hardin plan falls through. Mr. Currie said that there will be more available to allocate out and what they receive will be based upon their production.

Rep. Erickson asked if the MDT can present to the Committee where the Special Revenue Fund will be in 2008 at the next meeting. Mr. Currie said that he would provide that information.

Mr. Galt said that the executive planning process requires a placeholder for legislation that will be needed in the next session. He said that they have taken the three issues where highway trust monies are sanctioned or transferred as a result of non-compliance of Montana's alcohol standards with federal requirements. Mr. Galt explained to the Committee 5401-01-001 through 5401-02-004.

5401-01-001: Lowering the Blood Alcohol Level to .08

Mr. Galt said that the Federal government is going to do a hard sanction on highway construction monies beginning in FY 2004 and if Montana does not change its statute the state could lose approximately \$15 million. He said that the money will be immediately taken away from the state. The funds will be held by the federal government for the state until 2007 and if the state is still not in compliance the funds will be distributed to other states.

5401-01-002 and 5401-01-003: Repeat Offender and Open Container

Mr. Galt said that monies are transferred out of the construction program and into highway traffic safety programs if the state does not comply with open container and repeat offender federal changes. Mr. Galt said that they are asking for a legislative placeholder while the Governor's Alcohol Task Force crafts proposals that could comply with the federal regulations.

Dr. Jeff Linkenbach, Montana State University, Department of Health and Human Development, presented to the Committee the Montana Social Norms Project (EXHIBIT #5). He said that the majority of Montanans are engaging in healthy behavior and if the word can be spread, we will then be able to measure behavior changes. He said that most Montanans would support the .08 blood alcohol content (BAC).

Rep. Story asked why people would support .08 BAC vs. .10 BAC. Dr. Linkenbach said that his opinion is that our studies ask whether or not a respondent would be interested in a .08 BAC if it would help decrease impaired driving accidents. He said that there is an overall trend that if the legislation would help improve safety the public would support it.

Rep. Story asked if behavior is more affected by perception and education rather than the law. Dr. Linkenbach said that changing perception changes behavior. He said that there is also research that states that changes in law cause changes in behavior.

Sen. Taylor asked how many more DUI's will the lowered BAC create. **Kent Mullohan, Planner, Montana Department of Transportation**, said that there may be a small percentage increase.

Sen. Taylor asked if there is any concrete evidence between the .10 BAC and the .08 BAC. He also asked if the MDT can show the change in costs associated with the change in BAC. Mr. Galt said that the MDT can provide some information. He said that there is an increase in first time offenders and a decrease in multiple offenders. He said that the MDT and Department of Corrections are trying to determine the cost.

Sen. Cocchiarella said that she would like a summary from the MDT that targets where the true problems are and the enforcement. Mr. Galt said that a draft will be provided to the Committee. Sen. Cocchiarella also asked for the definition that is used for "alcohol-related" crashes.

5401-19: Garvey Bond

Mr. Galt said that it has been the intent of the MDT to issue Garvey Bonds to build Highway 93. He said that a Garvey Bond is a revenue bond that allows the MDT to use future, federal dollars to pay the proceeds on the debt service. Since the project is within the Salish-Kootenai Nation, that would be 100% federal aid. So, the MDT would use the federal aid to payoff the bonds.

Mr. Currie said that at the Capital Finance Advisory Council meeting the bond counsel asked if the state would have to change enabling legislation to allow the MDT to proceed with the Garvey Bonds. He said that the MDT did not feel that any additional legislation was needed. However, there is still a difference of opinion. He said that they are not looking for an increase in bonding capability.

Sen. DePratu moved to authorize staff to draft proposed agency legislation items 5401-01-001, 5401-01-002, 5401-01-003, 5401-18, and 5401-19. After much discussion, the motion passed unanimously.

Mr. Galt discussed with the Committee the fee class on trucks for people who haul timber off of their property. He said that there are people in western Montana who harvest trees. However, trees are not considered a farm product and they have been forced to pay the commercial license fee. He said that when they change to commercial fees other standards must be met. He said that the issue is whether a tree is a farm product.

Sen. DePratu said that the people who are concerned about this are relatively small operators who haul a few loads of logs a year to pay land taxes or for a special purposes. He said that maybe the legislature could limit it to single drive axle trucks. He said that most of the people involved in this operation are not commercial in a true sense of a commercial operation. He said that he would like to see a resolution where the people this would effect would not have to take on additional expenses.

Rep. Story asked for the definition of a log. Mr. Galt said that there is not a definition for a log, but timber is defined as a natural resource not a farm product.

Rep. Story said that his concern is that if we try to fix this, then we can run into a problem of agriculture as the trucks get bigger. He said that he does not know how we can make one truck become commercial while giving an exception to a grain truck. Mr. Galt said that the corporate issue is a concern and most of the agriculture trucks are from corporations.

Sen. Ellingson asked about the safety issues that relate to commercial vehicles as opposed to agricultural vehicles of the same size. Mr. Galt said that there is an issue of commercial drivers licenses. He said that he has tried to determine some definable difference, but there is the problem of defining who is agriculture and who isn't.

Sen. Taylor said that trees can be defined as a agricultural product. He said that Christmas trees have been defined as an agricultural product for years. He said that the question is trying to define what the small agricultural producer can use as a product without being a commercial producer.

Rep. Erickson said that logs are a lot different than wheat. He said that the legislature needs to be concerned about the insurance and safety issue. Mr. Galt said that the operators do have insurance, but it is just more expensive for commercial insurance.

Tom Richmond, Board of Oil and Gas Conservation, presented to the Committee the Regulation of Oil and Natural Gas Exploration and Development in Montana (EXHIBIT #6) . Sen. DePratu asked how many barrels of oil are used per day in the United States. Mr. Richmond said that he would guess 35-40 million barrels per day.

Sen. Taylor asked the critical point for the price of gas. Mr. Richmond said that it depends on the depth of the well and the operating conditions.

Rep. Story asked if the sale of the Montana Power gas fields resulted in an increase in drilling. Mr. Richmond said yes.

Rep. Erickson asked if this year will surpass last year in overall production and exploration. Mr. Richmond said that his prediction is that we will end up about the same as last year.

Sen. Roush asked about a lack of exploration in Montana. Mr. Richmond said that the health of the oil industry depends upon price. He also said that you have to have the property to explore. In addition, the regulatory climate and taxes play a role.

After much discussion about whether a reporting requirement for the Board of Oil and Gas Conservation should be in the law, Sen. Taylor moved to have a Committee bill drafted to repeal the session law which contains the reporting requirement. Sen. Cocchiarella agreed to sponsor the bill. The motion passed unanimously.

DEPARTMENT OF REVENUE

Kurt Alme, Director, Department of Revenue (DOR), presented to the Committee the Department's requests for legislation (EXHIBIT #7 & #8).

Sen. DePratu asked about 5801-01-012 and asked if there is consideration regarding a minimum payment. Mr. Alme said that the DOR has provisions in place where bills are not sent out. However, they are not standardized between tax types, so the DOR can consider that in conjunction with the bill.

Sen. Roush asked about multiple property and equipment owners and asked if legislation is needed to remedy the situation. Mr. Alme said that they are not seeking legislation. He said that his concern is in reference to mining claims.

Dolores Cooney, Process Lead, DOR, said administratively, a letter is sent to all co-tenants of the property. She said that should keep property owners informed of who the other co-tenants are. Ms. Cooney said that adverse possession is not applicable in this case as the individual who pays the taxes is paying for the group.

Rep. Erickson said that his concern is with the pass-through entities. He said that it seems appropriate that something that is complicated and new may continue to be altered. He said that

the legislature needs to make sure that something can be drafted and the needs be met. Mr. Alme concurred.

Rep. Story asked about 5801-08-001 about the DOR's ability to enter and exit private property. Mr. Alme said that the DOR would be exempt from the trespass law. However, the DOR wants to be respectful of privacy laws.

Sen. Cocchiarella moved that the Committee authorize staff to draft the requests made by the Department of Revenue. The motion passed unanimously.

Neil Peterson, Process Lead, DOR, presented to the Committee liquor legislation (EXHIBIT #9, Tab - Liquor Legislation).

Sen. Cocchiarella asked about the 90 day provision for remodels and if this would have helped the golf course in Thompson Falls. Mr. Peterson said no.

Rep. Story asked about the application change due to death and if the DOR is assuming that the inheritor is already one of the licensees. Mr. Peterson said yes.

Ms. Cooney presented to the Committee information regarding the Certified Taxable Value Task Force (EXHIBIT #9, Tab - Certified Taxable Value Task Force).

Rep. Story asked about a property owner suing the DOR. Ms. Cooney said that this is not an assessment. She said that we are using the value of the prior year in order to establish a tax rate. She said that the attorneys do not feel it is an issue because of the way that the rate is calculated.

Randy Wilke, Process Lead, DOR, presented to the Committee information regarding the Agricultural Land Definition task force, forest land reappraisal, and a reappraisal update (EXHIBIT #9, Tab - Agricultural Land Definition Task Force, Forest Land Valuation, and Reappraisal Update). Mr. Wilke also presented to the Committee the Forest Land Reappraisal Report (EXHIBIT #10), the DOR regions (EXHIBIT #11), and the Montana Residential/AG Property Reporting Form (EXHIBIT #12).

Rep. Story asked about forest land reappraisal and counties with higher valued timber lands and what that will do to their tax base. Mr. Wilke said that they are still determining those numbers.

Sen. DePratu asked about the percentage of return on the questionnaire for commercial properties. Mr. Wilke said that the state average is 20%.

Sen. Roush asked about reporting and said that the elderly may have difficulty figuring out the form. Can an appraiser come and assist them. Mr. Wilke said yes.

Rep. Erickson asked about other buildings and structures on the reporting form and asked if there is an "other" classification. Mr. Wilke said that they are doing a fairly good job of picking up large buildings and the form is to provide more information on the inside.

Cleo Anderson, Process Lead, DOR, presented to the Committee administrative rules (EXHIBIT #9, Tab - Administrative Rules).

Mr. Alme presented to the Committee the Department's proposed spending reductions (EXHIBIT #9, Tab - Spending Reductions).

Rep. Erickson asked if state revenue will decrease because the DOR will have to decrease their number of employees. Mr. Alme said no as the DOR did not have to eliminate any audit or collection positions.

Rep. Kaufmann asked if any of the cuts anticipate a loss of personnel. Mr. Alme no. He said that they are eliminating positions and not filling open positions.

RECESS

The meeting recessed at 5:05 p.m. and will reconvene at 8:30 a.m. on June 14, 2002. The joint meeting of the POINTS Subcommittee and the Revenue and Transportation Interim Committee convened following the recess of the Revenue and Transportation Interim Committee.

POINTS SUBCOMMITTEE MEETING

SUBCOMMITTEE MEMBERS PRESENT

Sen. Jim Elliott
Sen. Corey Stapleton
Sen. Greg Jergeson
Sen. Royal Johnson
Rep. Ron Erickson
Rep. Jeff Pattison
Rep. Dave Wanzenried

SUBCOMMITTEE MEMBERS ABSENT

Rep. Ron Devlin

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 5:05 p.m. by Sen. Elliott. Roll call was noted with all members present except for Rep. Devlin who was excused.

DEPARTMENT OF REVENUE POINTS REPORT

Kurt Alme, Director, Department of Revenue (DOR), provided to the Subcommittee a POINTS update (EXHIBIT #1). He said that following the presentation the DOR will be asking for recommendations from the Subcommittee and the RTIC regarding additional funding.

Rep. Erickson said that the RTIC will address the issue at their meeting on June 14, 2002.

Dale Matheson, POINTS Project Manager, DOR, reported to the Subcommittee on the POINTS I stabilization and defect remediation efforts as detailed in exhibit #1.

Rep. Erickson asked about the partial completion percentages. Mr. Matheson said that he has tracked by hours how the DOR is progressing against the estimated work plan. He said that the percentage metric is utilized to show that there are a number of items underway though they are not yet complete. Rep. Erickson asked how the percentages were determined. Mr. Matheson said that he used conservative percentage estimates.

Dan Ellison, IT Manager, DOR, presented to the Committee the organizational chart, staff changes, and recruitment for the system architect position as outlined in exhibit #1.

Rep. Pattison asked about finding lost payment reports and determining penalties and interest. Mr. Ellison said that they are reviewing that on a daily basis. Mr. Ellison said associated with that effort is the DOR search for a data quality analyst.

Rep. Pattison asked what percentage of accounts Mr. Ellison believes are incorrect. Mr. Ellison said that he would provide those numbers.

Rep. Wanzenried asked if Mr. Ellison is comfortable with the data being transferred from the POINTS system to the SABHRS system. Mr. Ellison said that he is confident that the data is accurate.

Rep. Wanzenried asked Mr. Ellison how confident he is in the system for revenue projections. Mr. Alme said that this is an ongoing question and the DOR believes that the information is correct.

Rep. Erickson expressed his concern that there is not an appropriate level of staff to test the system. Mr. Ellison said that they have 3 of the 6 testers recommended by Dr. Henry. He said that the recommendation of 6 testers was based upon the fact that they did anticipate turnover. He said that the DOR will be hiring 2 testers within the next two weeks.

Sen. Elliott asked how they determine that the data is accurate. **Jeff Miller, DOR**, said that the cell at the individual account level is problematic, but the DOR is reconciling the problem on a daily basis. He said that the DOR is very confident in the total revenue collections.

Sen. Elliott asked about interest and penalties. Mr. Miller said that the system does count interest and penalties

Mr. Matheson reviewed for the Subcommittee the reconciliation project plan development for POINTS II as detailed in exhibit #1.

Mr. Miller reviewed for the committee the current status of existing contract efforts and contract negotiations as detailed in exhibit #1.

Rep. Erickson asked about the contract renegotiation process. Mr. Alme said that the contract that was signed to develop POINTS II did not contemplate reconciliation and parallel implementation. He said that the DOR has had to reconcile Phase I and Phase II code more extensively than was anticipated. He said that the current contract calls for the DOR to go live with Phase II and then move into a warranty phase. He said that they are not in the position to do this because the DOR must do a reconciliation phase. He said that the warranty phase of the contract need to be restructured. He said in order to go forward and make use of the resources in the contract, the DOR needs to restructure how those resources will be used.

Rep. Erickson asked how this connects into the DOR's proposal and funding request in the next session. Mr. Alme said that he has talked on several occasions about the transition the contract is going to take and how the DOR will continue to use the Unisys resources to transition through the reconciliation phase. He said that to the extent that a contracted employee with a developer from Unisys can be used then that displaces the extra cost that the DOR would have to incur.

Sen. Elliott asked about the renegotiation of the contract with Unisys and if there is any increase in the lost opportunity to the DOR. Mr. Alme said no. He said that the DOR has contemplated some form of renegotiation and this is consistent with what the DOR has been reporting for the last few months. He said that the only thing that is new is that Unisys agreed to volunteer two developers and an additional manager free of charge.

Brian Wolf, Chief Information Officer, Information and Technology Services Division, reviewed for the Subcommittee the independent validation and verification of the process and the proposed project structure as detailed in exhibit #1.

Rep. Wanzenried asked how much Louisiana and New Mexico invested in their systems. Mr. Wolf said that in Louisiana, hard costs were \$15 million to \$17 million. In New Mexico, their costs are around \$30 million to \$40 million dollars. Rep. Wanzenried asked if that included the modular costs in New Mexico. Mr. Wolf said no.

Rep. Story asked how much longer the legislature has before a decision needs to be made. Mr. Wolf said that it is dependent upon the work that the system architect is doing and it may be a couple of months before that type of specificity is available.

Rep. Story asked about the cost to continue and the cost to terminate. Mr. Wolf said that is part of the analysis that Mr. Alme will be providing.

Rep. Erickson asked about New Mexico's system and if Montana would be interested in building a similar system. Mr. Wolf said that New Mexico is building a new stand beside system which will not be able to interface with their current system. He said that there is potential for sharing, but the reality is that they are probably different architectures.

Rep. Pattison asked about the GenTax system and if he has talked to anyone who has the system. Mr. Wolf said that he has talked to the GenTax project manger in Idaho. He said that their example is not parallel to Montana because Idaho was not moving from a challenged system. Rep. Pattison asked about research on GenTax. Mr. Wolf said that he has not thoroughly investigated GenTax.

Sen. Elliott asked about the Data Quality Analyst. Mr. Wolf said that they are trying to find the right person to do that.

Sen. Elliott asked if the maintenance cost has been figured into the budget of the DOR. Mr. Alme presented to the Committee an update on project costing and project risks.

Rep. Erickson asked Mr. Alme about preparation costs. Mr. Alme said that a lot of the due diligence would be internal. However, he said that there were some cost components that were overlooked and the DOR would provide that information. Rep. Erickson asked about costs in the 2007 biennium. Mr. Alme said that the DOR is trying to focus on hard dollar costs for this biennium and the next.

Rep. Pattison asked about the loss of revenue collections. Mr. Alme said that staff has been diverted to assist with the POINTS project. However, he said that the opportunity cost is going to be significantly greater if the DOR needs to build a new system. He said that there is a discussion regarding staff that can be diverted back to revenue collection sooner if POINTS II is eliminated.

Rep. Story asked about ITSD costs to run the POINTS I system. Mr. Alme said that the cost is greater in the concurrent stabilization and implementation of POINTS II because of the increased costs to run POINTS II. Rep. Story asked who receives the ITSD money. Mr. Alme said the Department of Administration. Mr. Wolf said that the cost model is changing for ITSD and they are working with the DOR to determine if any costs can be offset.

Rep. Story asked about the possible delay of the POINTS I system and if an independent analysis has been done to determine the anticipated completion date. Mr. Alme said that the DOR has not had an independent analysis. He said that the more important metric to focus on is the remaining percentage of contingency.

Sen. Elliott said that his understanding of POINTS II is that it is not just a supplement to POINTS I coding, but it replaces a lot of the POINTS I coding. Mr. Alme said that that was correct. Sen. Elliott said that if POINTS II failed, then the DOR would still have an intact POINTS I system. Mr. Alme said yes. Sen. Elliott asked how much money the state would lose assuming that POINTS II fails. Mr. Alme said approximately \$150,000 -\$170,000 per month.

Sen. Elliott asked about the danger of obsolescence of the legacy system. Mr. Ellison said that the DOR should be able to operate those systems for several more years if required.

Sen. Elliott said that the least costly choice would be to keep the legacy system and develop POINTS I on an annual basis. Mr. Ellison said that he would not be able to agree with that assessment.

Mr. Alme said that the question for the Committees is whether or not the DOR should proceed knowing that the plan will require additional appropriations.

SUBCOMMITTEE DISCUSSION

Sen. Glaser said that whether or not POINTS II goes forward, there will still be approximately the same amount of debt.

Sen. DePratu said that the DOR staff has implemented a number of disciplines that will allow them to make a decision in the future. He said that he would not like to interrupt the progress the DOR has made.

Sen. Johnson said that he questions what the purpose of the Subcommittee is and would like to hear Rep. Erickson's impression.

Rep. Erickson said that the long term costs helped him determine that POINTS II should not be abandoned. He said that he realizes that additional funds will be requested at the next session but feels that it is a worthwhile cost.

Sen. Stapleton said that he does not concur with Sen. DePratu. He said that he agrees with Sen. Johnson regarding the purpose of the Subcommittee. He said that the Subcommittee has taken the original legislative intent and divided it. He said that he would suggest that in addition to the price of the system, the state has lost approximately \$30 million in opportunity costs. He said that he would strongly encourage abandoning POINTS II.

Sen. Elliott said that the purpose of this Subcommittee is to devote more time to study the issue, develop an area of expertise, and make an informed recommendation back to the parent committees.

Sen. Jergeson said that his sense of the problem was that the DOR had not come to grips with the problems that they had with POINTS or developed a proper plan. He said that he is satisfied

that the DOR has a much better grasp on where they are and have made quantitative strides to successfully complete the project. He said that if POINTS II is implemented and works, it is going to generate the information the state needs for a long period of time.

Rep. Wanzenried said that the vocabulary has changed, but the issue is still the same. He said that it has become clear that the DOR needs more resources and the DOR will continue to work on POINTS for at least a couple of months. He said that as compelling as the need is for the POINTS system, that is going to be weighed against a lot of other priorities. He said that we need to proceed for the next three months and then make a decision.

Sen. Johnson asked if potential budget cuts will be significant enough to stop work on POINTS II. Mr. Alme said that the proposed budget cuts are not significant enough to stop the project.

Sen. Johnson asked about the four major risks identified in May and if they have occurred. Mr. Alme said that based upon the information received over the last four months the DOR does not believe they have occurred.

Sen. Johnson said that based upon the financial information received, it will be difficult to appropriate additional funds to the DOR during the 2003 session. Sen. Johnson asked for the difference in cost of POINTS I and II compared to disbanding the project today. Mr. Alme said the difference in cost is approximately \$1.35 million.

Rep. Pattison said that the DOR should discontinue the POINTS project and find something that will work. He said that there are too many "ifs" in Mr. Alme's statement and the point is how long are we going to wait before we decide to pull the plug. He said that there comes a point in time where we just have to cut our losses and go.

Sen. Stapleton suggested that the Subcommittee take a vote regarding POINTS II and then take a vote to disband the Subcommittee.

Sen. Elliott said that he doubts that the \$1.9 million will be allocated to the DOR unless the budget office supports the move. He said that he does not think that the legislature has a lot to lose by disbanding the Subcommittee. He said that the time to make a decision regarding POINTS would be in two months when additional information is available.

Sen. Stapleton moved to recommend abandoning the POINTS system. The motion failed 3 to 3 with Sen. Jergeson, Sen. Elliott, and Rep. Erickson voting no.

Sen. Johnson moved that the POINTS Subcommittee be disband. The motion passed unanimously.

ADJOURNMENT

The POINTS Subcommittee meeting adjourned at 7:15 p.m.

JUNE 14: CALL TO ORDER AND ROLL CALL

The meeting was called to order at 8:32 a.m. by Rep. Erickson. Roll call was taken (ATTACHMENT #4) with all members present except for Rep. Somerville, Rep. Devlin, Sen. Roush, and Sen. Taylor who were excused.

EXECUTIVE COMMENT

Chuck Swysgood, Director, Office of Budget and Program Planning (OBPP), said that in the overall general fund picture the Legislative Fiscal Division (LFD) and the Executive are close in their assumptions and projections. He said that the OBPP estimates \$111.9 million less revenue and the LFD is estimating \$114.6 million less revenue. He said that the differences are in some of the areas where the OBPP is more optimistic such as income tax and corporate tax.

Sen. Ellingson moved to accept the Legislative Fiscal Division Proposal.

Terry Johnson, Principal Analyst, Legislative Fiscal Division, presented to the Committee the LFD Analysis Spending Reductions Proposal Fiscal 2003 (EXHIBIT #14 -Tab 2). Mr. Johnson reviewed for the Committee the General Fund Revenue estimates. Specifically, he detailed corporate income tax, individual income tax, insurance tax and license fees, oil production tax, natural gas production tax, U.S. mineral royalties, vehicle tax, all other revenue, and public institution reimbursements.

Sen. Cocchiarella asked about the sale of Montana Power Company. Mr. Johnson said that Touch America has filed a report with the securities and exchange commission indicating that they will have over \$100 million worth of tax liability. He said that it was not clear whether that liability will be state, federal, or a combination. He said that they have tried to contact the company to determine if they have an idea of the revenue that they will be paying due to capital gains. Mr. Johnson said that they do not have an estimate of the amount that the state will receive.

Mr. Johnson provided to the Committee the Legislative Fiscal Division General Fund Revenue Report (EXHIBIT #15). He said that the report shows collections by month.

Sen. Ellingson said that since what we do today is advisory, we can talk about these estimates and make a recommendation and the budget office can consider it. Mr. Johnson said that that is correct.

Rep. Erickson said that the Committee is also concerned with the trends as well as the numbers.

Sen. Ellingson asked if there would be another round of legislative advice and consent if more cuts were needed. Mr. Swysgood said that the statute is vague as to the process after the initial process and it is his interpretation that we could go through the process again, or the OBPP can adjust the reductions.

Sen. Ellingson asked if 17-7-140, MCA mandates that OBPP return to the legislature for any additional budget cuts. **Clayton Schenck, Director, Legislative Fiscal Division**, said that the statute calls for the Governor to implement budget reductions. He said that he has had the discussion with legal counsel and this is a plan only to the Governor and it would be her right to

make changes to the plan. However, if there was further deterioration then the process would have to start over again.

Lee Heiman, Attorney, Legislative Services Division, said that he concurs with Mr. Schenck.

Sen. Cocchiarella asked if the RTIC was under a twenty-day restriction like the Finance Committee. Mr. Heiman said that the twenty-days are not jurisdictional. He said that it is not incumbent upon the Executive Branch to meet the twenty-days, it is incumbent upon the Legislative Branch to meet. Sen. Cocchiarella said that this is day twenty-one and we do not have the trend information that is needed. Mr. Heiman said that if the Committee is on the twenty-first day, then the Executive Branch does not need to consider any suggestions provided by the Committee.

Sen. Cocchiarella said that it would be a better process to have a twenty-day lead time that has meaning. She said that she does not believe that the Committee is having any meaningful dialogue or input in the process. She asked the Committee what the point of the meeting is if there is no meaningful input or dialogue.

Rep. Story asked Mr. Heiman if the trigger is reset once the plan is implemented. Mr. Heiman said that that is one of the questions. He said that one of the valid answers is yes.

Rep. Story said that he understands Sen. Cocchiarella's frustration but part of the legislative process is to simply shed light on an issue and not the final decisions that are made.

Sen. Cocchiarella concurred. However, she said that when you see the vote reflected in the newspaper of a legislative committee as if it is meaningful, the public does not understand the difference.

Sen. Ellingson said that he does not think that the statute is clear about the trigger being reset. He said that the Committee should consider whether they should recommend further legislative consultation if revenues continue to deteriorate.

Rep. Story asked if the forecast numbers were the HJR 2 numbers or the revised numbers. Mr. Johnson said that they were the revised recommendations.

Mr. Johnson provided to the Committee the Legislative Fiscal Division Individual Income Tax Calculations (EXHIBIT #16).

Rep. Story said that refunds are done on a calendar year basis not a fiscal year basis. He asked how far along the DOR is in handling refunds. **Lynn Chenoweth, Process Lead, DOR**, said that they are current which is one of the reasons for the reduced accrual.

Rep. Erickson asked what will happen during the next seventeen days. Mr. Chenoweth said that he would not be comfortable in making a guess. Rep. Erickson asked if he knew how many people filed for refunds during the last two weeks of June. Mr. Chenoweth said no, but he could provide the information.

Rep. Story said that the refund number should not grow significantly. Mr. Chenoweth said that that is a reasonable assumption to make. Mr. Johnson said that the LFD looked at refunds as of June 5th which was \$139.9 million. He said that refunds have grown from \$139.9 to \$142.6 million through today.

Sen. Ellingson asked about refunds and why the LFD did not revise the revenue estimates to take into consideration the additional deficit. He also asked about the Executive estimates. Mr. Johnson said that Mr. Swysgood alluded to getting estimated and quarterly payments next week. He said that he would assume that the LFD will look at all of the components next week before they make changes.

Sen. Ellingson asked if the numbers continue to decrease does OBPP have authorization to make additional cuts without consulting the legislature. Mr. Swysgood said that there are a number of issues, and they have tried to interpret the law to the best of their abilities. He said that until the day that he certifies to the Governor the budget projections, he feels he has the authority to continue to make changes. Mr. Swysgood said that he is not clear that the trigger is reset in statute.

Sen. Ellingson said that until the OBPP makes a certification to the Governor, they can still cut spending below the current spending reduction plan if it is required by the actual receipts of revenue that are coming into the state. Mr. Swysgood said yes.

Sen. Ellingson asked why the Committee does not have lower estimates because of the actual figures coming in. Mr. Johnson said that because of the statutory requirements to fulfill the five day time frame, the LFD had no choice but to take the last day possible to come up with their estimates. He said that if they were in the same position today, he would use the numbers on the General Fund Report presented today. He said that this is based upon the change in the refund activity. He said that he does not have any new information either on the withholding, estimated, or current year pays that would change his mind at this point in time. He said that if the Committee asked the same question next week, he is going to take into account the new information that the LFD will be receiving on estimated payments.

Sen. Ellingson asked Mr. Johnson if it is his view that the Committee has the authority to simply adopt, reject, or adjust the LFD recommendation. Mr. Johnson said that all options are available to the Committee.

Sen. Ellingson asked about the capital gains issue and not having viable data. Mr. Johnson said that in November 2000, the growth rate assumed was 7.9% and in subsequent years it was 1.7%. He said that the capital gains income will further deteriorate. He said that assuming that we start to grow, it will not grow nearly as much as in the past.

Sen. DePratu asked if the Committee can find out the total collections during last June. Mr. Johnson said that he would provide that information after the break.

Rep. Erickson asked about the difference in the "current year" information provided. Mr. Johnson said that the document presented today is his estimate based upon current information received. He said that we have some improvement in that category, however we have seen degrading refund numbers.

Rep. Story asked if the Committee is accepting proxy votes. Rep. Erickson said that his first inclination is no and asked for discussion.

After much discussion, Rep. Story moved that proxy votes not be accepted today and that the issue will be reviewed at a future meeting. The motion passed unanimously.

Mr. Johnson presented to the Committee an updated General Fund Revenue Report (EXHIBIT #17), Corporate Taxes (EXHIBIT #18), and Individual Income Taxes (EXHIBIT #19).

Sen. Ellingson asked if \$60 million was collected in June 2001. Mr. Johnson said yes. Sen. Ellingson said that traditionally the state could expect more income tax to be paid during the balance of the month. Mr. Johnson said yes.

Sen. Cocchiarella said that the most responsible position that the Legislature can take at this time is to take no action. Sen. Cocchiarella made a substitute motion that prior to the budget director's certification to the Governor, the RTIC recommends that the revenue trends and all categories be considered given the revenue received on the day closest to the submission to the Governor.

Sen. Ellingson said that he appreciates the reasoning behind the substitute motion and feels that there is a lot of merit. But he feels it is more appropriate to add language to the adoption of the LFD proposal. He said that the legislature is never going to have all of the numbers, but the legislature needs to base their decision on the most current information.

Sen. Glaser said that until the legislature comes back in January or for a special session, it is our responsibility to monitor the situation. He said that the weakness in the process is that the legislature does not have the ability to interface with the executive branch so that we know day to day what is going on. He said that it is important to work with the administration on this matter.

Rep. Kaufmann asked about the law that the budget director is working under. Rep. Erickson said that the director has the right to recommend that the Governor call a special session. Rep. Kaufmann asked about taxes or revenue enhancing measures that could be implemented in a timely manner to offset the current problem. Rep. Erickson explained the Governor's options for calling a special session. He said that there are possibilities to make up for the loss that people are going to feel.

Sen. Cocchiarella said that the Legislature has no say in the issue as they have given their rights to the Executive Branch through 17-7-140, MCA. Sen. Cocchiarella's motion passed 5 to 3 with Rep. Erickson, Rep. Kaufmann, and Sen. Ellingson voting no.

Mr. Johnson continued his review for the Committee. He said that the primary focus is individual income taxes, corporate taxes, and capital gains taxes. He said that those are the driving forces that have caused the state to be where it is today. He said that this also ties to the decline in the equity market.

Sen. Ellingson asked why corporate income tax has fallen off so much and what information is there on the current trend. Mr. Johnson said that the forecast is based upon U.S. corporate profits and taxes received from multinational corporations. He said that on the national level

there is an economic slow down. He said that the nation dipped into a recession which dropped corporate profits which immediately reduced corporate taxes at the state level.

Sen. DePratu asked if the state has ever determined what percent of capital gains comes from security as opposed to real property. Mr. Johnson said that they do have some dated material.

Larry Finch, Process Lead, Department of Revenue, said that a summary of the information requested was prepared in 1995. He added that the only way to insure that the information remains current is through the addition of staff.

Rep. Erickson asked about the specifics of the 1995 data. Mr. Finch said that he does not recall the specifics, but the amount from securities was less than anticipated. Rep. Erickson said that the Committee would like to know that information.

Rep. Story asked about the difference in the corporate estimate between the LFD and the OBPP. Mr. Johnson said that the LFD used the most recent forecast of U.S. corporate profits and Montana corporate profits. He said that they added in revenue from anticipated audit collections which would contribute to a higher number.

Rep. Story asked that the LFD review the telephone license tax before the RTIC begins the revenue estimating process.

POINTS

Rep. Erickson asked for comments regarding the POINTS Subcommittee meeting held on June 13, 2002.

Rep. Story said that there were two schools of thought for those who want to end POINTS. The first school believes that the contractor has a bad reputation, the DOR is more emotionally invested than they should be, and the state still will not have the full system that it needs. He said that the second school believes that it is financially better to continue with the DOR. He said that he would continue to support the current track of development for POINTS I and II.

Rep. Kaufmann concurred.

Rep. Laslovich asked what would happen if the Appropriations Committee does not give the DOR \$2 million for the next biennium.

Jeff Miller, DOR, said that the DOR would have increased the sunk cost into the system at that point. Mr. Miller said that the DOR will need the approval of the budget office to bring the request forward to the legislature for the \$2 million. He said that their current funding allows the DOR to continue through FY 2003. He said that the additional money will be utilized for FY 2004 and beyond.

Sen. Glaser said that if POINTS II looks good in December then the money will be available.

Rep. Story asked about the number of auditors who are working on POINTS which has decreased the revenue collections from audits. Mr. Miller said that there are three revenue

agents that are working on POINTS. He said that that has impacted the ongoing opportunity costs, but the reallocation of personnel to the POINTS system is essential.

After much discussion, Rep. Story moved that the RTIC re-adopt the motion from the April 11-12, 2002 meeting which stated "the RTIC recommended the DOR move forward with its plans for the stabilization and implementation of POINTS I and II with the RTIC's continued oversight". The motion passed unanimously.

GOVERNOR'S TAX REFORM ADVISORY COMMITTEES

Sen. DePratu provided a report to the RTIC regarding the first meeting of the Income Tax Advisory Committee. He said that where the state really stands out is with respect to capital gains taxes and income taxes. He said that the Committee is looking at lowering the capital gains tax by eliminating federal deductibility. He said that the DOR is compiling information for the next meeting.

Rep. Erickson asked Sen. DePratu about the federal deductibility. Sen. DePratu said that they have asked the DOR to review the situation if the federal deductibility was set at 5% or eliminated completely.

Rep. Story provided a report to the RTIC regarding the first meeting of the Tourist Tax Advisory Committee. He said that the first meeting was spent hearing from the DOR and the Governor's Office of Economic Development. He said that if income tax was decreased, the state needs to develop a replacement source. He said that the next meeting will be spent reviewing the numbers in regards to who would be taxed and at what level.

Rep. Erickson said that the bottom line number came to \$66 million but that is if everything on the list provided is taxed at 4%.

Sen. Ellingson said that the idea then is not a general sales tax, but a tax on list of items. Rep. Erickson said yes. Sen. Ellingson asked how many items were on the list. Rep. Story said that numerous items were on the list but the majority of the money would be raised through hotels, motels, and restaurants. Sen. Ellingson said that these items were picked because they mostly affect tourists. However, the tax will be imposed on residents as well. Rep. Story said yes and the next meeting will deal primarily with that issue. He added that the Committee has not yet determined the type of tax.

Rep. Erickson said that another issue is that this would not be a general sales tax so the state could exceed the constitutional cap of a 4% tax rate.

INSTRUCTIONS TO STAFF

Ms. Kurtz said that the agenda items for the next meeting include:

1. Final Report draft
2. POINTS update
3. OBPP update
4. LFD update
5. Proxy Votes
6. Required Reports

ADJOURNMENT

The meeting adjourned at 12:28 p.m. with the next meeting scheduled for September 5-6, 2002.

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